

REMARKS

Claims 37-45, submitted hereby in place of claims 28-36, are pending. Claims 3-13 and 16-27 stand withdrawn pursuant to a restriction requirement.

Claim 37 corresponds to claim 28, revised by claiming "An isolated eukaryotic neutral sphingomyelinase" and by reciting "comprising" as the transitional phrase instead of "having." Additionally, claim 37 revises claim 28 with respect to the recited "variant" of SEQ. ID. NO: 1 and SEQ. ID NO: 2. Specifically, each of the recited

- a naturally occurring allelic variation of SEQ ID NO: 1 or SEQ ID NO: 2,
 - SEQ ID NO: 1 or SEQ ID NO: 2 having one inserted, deleted, or conservatively substituted amino acid,
- and
- N-terminally truncated or C-terminally truncated SEQ ID NO: 1 or SEQ ID NO: 2,

variants can, also be "acetylated, glycosylated, amidated, and/or phosphorylated" in accordance with the presently claimed invention. Therefore, claim 37 adds these additional embodiments to those recited in claim 28 for the "variant."

Claims 38-45 correspond to claims 29-36, revised to address the §101, §102, and §112 rejections and the objections to the claims, as explained below.

The rejection under 35 USC 101 is overcome, in accordance with the statement of rejection, since the instant Amendment adds the term —isolated—. Applicant wishes to thank the Examiner for the helpful suggestion of alternative claim language for overcoming the rejection.

The rejection under 35 USC 112, ¶2, is overcome, in accordance with the statement of rejection, since the instant Amendment changes the transitional phrase "having" to --comprising--. Applicant, again, wishes to thank the Examiner for the helpful suggestion of alternative claim language for overcoming the rejection.

In connection with the claims objections, the missing period is added to the end of claim 30 (as claim 39). Adding an article at the beginning of claim 38 (representing claim 29) appears awkward.

Claim 29 was rejected under 35 USC 102(b) based on Chatterjee. Reconsideration is requested in view of the changes to claim 29 represented in present claim 38.

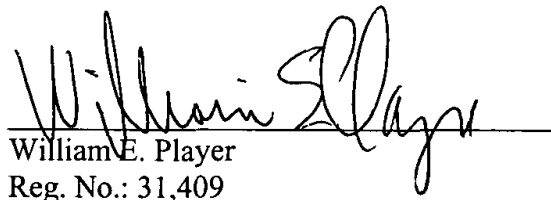
Claim 38 is limited to an isolated neutral sphingomyelinase having the sequence SEQ. ID. NO: 1 or SEQ. ID NO: 2, which overcomes the rejection. That is, neither SEQ. ID. NO: 1 nor SEQ. ID NO: 2 is met by the reference.

Favorable action is requested.

Respectfully submitted,

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